

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

---

CONSUELA SMITH-WILLIAMS, FRED  
RIVERS, RICHARD MURPHY, ROBERT  
RISTOW, ROGER SUHR, and  
SALVADOR FUENTES, individually, and  
on behalf of all similarly situated,

Case No. 17-cv-823-wmc

Plaintiffs,

v.

UNITED STATES OF AMERICA,

Defendant.

---

**UNITED STATES' RESPONSE TO PLAINTIFFS' MOTION TO COMPEL THE  
DEPOSITION TESTIMONY OF DR. FRANK MARCANTONIO**

---

On November 15, 2018, Plaintiffs Consuela Smith-Williams, Fred Rivers, Richard Murphy, Robert Ristow, Roger Suhr, and Salvador Fuentes, through their counsel, moved the Court pursuant to Fed. R. Civ. P. 37 for an order compelling the deposition testimony of Dr. Frank Marcantonio. (ECF No. 52.) The Court will hear arguments on the Motion to Compel on November 28.

In their Motion, Plaintiffs allege, among other things, that the United States provided a quality of dental care that fell below appropriate standards and was negligent in certain ways that resulted in Plaintiffs purportedly suffering severe emotional distress. The United States, consistent with its Answer, disputes these allegations. (*See* ECF No. 29.) Notwithstanding, the United States takes no position on

whether the Court should compel Dr. Marcantonio to testify as Plaintiffs have requested.

Dated this 19th day of November, 2018.

Respectfully submitted,

SCOTT C. BLADER  
United States Attorney

By: s/*David D. Conway*  
DAVID D. CONWAY  
THERESA (ESA) M. ANZIVINO  
Assistant United States Attorneys  
222 West Washington Ave., Suite 700  
Madison, Wisconsin 53703  
Telephone: (608) 264-5158  
Facsimile: (608) 264-5724  
[David.Conway@usdoj.gov](mailto:David.Conway@usdoj.gov)  
[Theresa.Anzivino@usdoj.gov](mailto:Theresa.Anzivino@usdoj.gov)